

FILED

## UNITED STATES DISTRICT COURT

JAN 15 2021

CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

for the

Northern District of OhioCivil Division

Case No.

1:21 CV 142

(to be filled in by the Clerk's Office)

Bobby L. Washington (AKA) James Summers

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

JUDGE OLIVER

MAG. JUDGE GREENBERG

Ohio Adult Parole Authority.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

All other names by which  
you have been known:

ID Number

Current Institution

Address

Bobby L. Washington

(AKA) James Summers

312428

Lorain

2075 S. Avon Belden Rd

Grafton

Ohio

44044

City

State

Zip Code

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Ohio adult Parole authority  
A.P.A (a state agency)

Ohio department of Rehabilitation and

770 W Broad Street

Columbus

Ohio

43222

City

State

Zip Code

☐

Individual capacity

☒

Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

corrections

## Defendant No. 3

Name \_\_\_\_\_

Job or Title (if known) \_\_\_\_\_

Shield Number \_\_\_\_\_

Employer \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

☐

Individual capacity

☐

Official capacity

## Defendant No. 4

Name \_\_\_\_\_

Job or Title (if known) \_\_\_\_\_

Shield Number \_\_\_\_\_

Employer \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

☐

Individual capacity

☐

Official capacity

**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

5th, 8th, 14th, amendments of the Constitution

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

And to the point of being in Ohio's custody I was  
always in custody by the Compact agent...

See Attach . . . "Custody By the Compact."

### III. Prisoner Status

The APP has power over supervision, Not the  
power to Add time to a plea agreement.

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☒ Other (explain) see Attach . . . The plaintiff is past

His Maxium sentence.

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

Not sure how to Answer this

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

See Attach -

C. What date and approximate time did the events giving rise to your claim(s) occur?

see Attach

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

see Attach.

## V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I've miss my medication, and I have ~~de~~ Had my meds changed due to this unlawful imprisonment and Being placed in greater danger by being around covid infected people, the Ohio department of correction are letting their own officers die, cause they want to bring in offenders just with violation. No New charges.

## VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

To withdraw my Guilty Plea and or  
To Be paid For my medical the medication that was  
lost, my medication are over 2,500.00 for 1 Bottle, my  
personal property and pictures that can never Be  
Replaced cause family member has pass away, my truck  
cost 3,500.00, a total for all my losses \$ 10,000.00

~~see Attach~~ .. and to be discharged from my 5 year to 25 year  
sentence which was up in sep, 20, 2020.

and to have my SS I restored, and my medcare, EBT

< I pray for All that must, "risk covid," thank you for your  
Service. >

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

But still the APA won't give answer to  
No complaints or grievances

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☒ Yes

☐ No

E. If you did file a grievance:

1. Where did you file the grievance? 770 W. Broad street  
Columbus, Ohio 43222

See Attached ..

2. What did you claim in your grievance?



See Attached ..

3. What was the result, if any?

None

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Do not know, we can not get any paper work  
From the Law library or the unit staff.



## F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

*I have done what I can do at this level, and no matter how or what I tried to do dealing with the APA, I have not gotten anywhere.*

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

*I informed the warden, the Institutional inspector, my case manager, and the APA Appointed Counsel & Dismissiveness from everybody.*

## G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

*I have tried to file other case's to this fact, But not to the extent of setting forth the claims like now.*

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

## VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☒ Yes

☒ No

*The clerk's in the law library was telling me how to file*

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

*7*

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

☒ No

yes in part and no in part Cause I was getting help from other inmates, and they filed paper work and did not fully show me how and what to do.

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

James Summerville

Defendant(s)

APA

2. Court (if federal court, name the district; if state court, name the county and State)

Western District

3. Docket or index number

Dont know

4. Name of Judge assigned to your case

Dont know

5. Approximate date of filing lawsuit

2017

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition.

some where in 2017

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

I think it was dismissed

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?



**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

12-28-2020

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

*James Summers*  
*James Summers (AKA) Bobby Washington*  
*# 312428*  
*2075 S. Aron-Belden Rd*  
*Grafton Ohio 44044*  
City State Zip Code

**B. For Attorneys**

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

Attach Additional page.

section 2.(D) The ohio adult parole authority (APA) as an agency of the State is bound by the states plea agreement with a Criminal defendant.

When the Plea Agreement has been fully performed by the Prosecutor and the sentencing court, the APA Can not use Administrative rules to extend a stated prison term that is bound by a plea agreement.

The plaintiff at this time is now incarcerated beyond the maximum Sentence under the plea agreement. Plaintiff was sentence in 1995 to a term of 5 years to 25 years, on September 17th.

The APA Has Breached this Plaintiff plea Agreement.. Plaintiff has no new Conviction to Change his sentence.

only a Violation that happend on Nov 2, of 2020, after the Expiration of Plaintiff maxium sentence,



Section 2.(D) cont. The issue is, in its simplest terms, whether the APA breaches a plea agreement when it use an Law to extend an inmate maximum sentence?

- (1) A violation is a alleged criminal activity (without indictment or charge) but not a offenses that a inmate was convicted.
- (2) Tolling of time/ Loss time: is still credit of time when the APA use a Law to change a plea agreement if in its judgment that there is reasonable ground to believe that extending a inmate maximum sentence would ~~farther~~ further the interest of justice and be consistent with the welfare and security of Society.
- The APA is not a Judicial Officer (they are not Judges) to impose a Law upon a inmate there must be DUE PROCESS OF LAW to change the plea agreement no agency of a state shall not deprive any person of life, liberty, or property, without due process of law;



Section 2. (D) cont. nor deny any person within its jurisdiction the equal protection of the Laws.  
The APA can not be imparshall on a issue of Law, in the Court of Law a sitting Judge in a Criminal Case, has a process the rules of Law which ~~a consist~~ ~~att~~ are Constitutionly bound.

Note: Randolph V.

Adult Parole Auth.  
(Jan 21, 2000) Miami  
App No. 99-CA-17,  
2000 Ohio App Lexis  
121.

"The Second District Court of Appeals determined that, as an agency of the State, the APA was bound by the state's plea agreement with a criminal defendant"

"No violation, No Loss of time that dont Correspond to the actual offenses of which the plaintiff was ~~not convicted at the time the of the~~ ~~plea agreement was done should~~ ~~not go beyond beyond the~~ ~~expiration of their maxium sentence.~~ the APA must not go beyond the expiration of the plaintiff maxium sentence set forth in the plea agreement.



Section 4. (A)(B)

2004

- on or about the Plaintiff was sent to
- the state of Michigan by way of the
- Interstate Compact for Probation and Parole.
- about 6 mos later plaintiff went
- back to prison and was Reparoled
- again for both Michigan & Ohio at
- which time Ms. Lewis the Michigan
- Compact agent was trying to get a final
- release from the state of Ohio's APA
- but was never contacted back.
- a few months later Plaintiff was back
- in prison, and at that time both of
- the plaintiff supervision was closed.
- Ms. Lewis of Michigan's Compact, tried
- again to contact the ~~set~~ state of Ohio
- and she did speak to a hearing officer
- in C.R.C in Columbus, Ohio, she ask if
- hearing paper's will be sent for the
- violation, and Ohio's answer was

Note: Extremism → "No we will consider his parole  
Revoke until he is back in Ohio."  
· Plaintiff was brought back to Ohio  
· and found out that there was over  
· 4 year's added to his sentence.

section 4. (A)(B) in 2019 after being 4 or 5 years  
back in prison in Ohio the APA gave  
the plaintiff a parole, and at the  
same time plaintiff was having  
Diarrhea and urination issues lab's  
was done at Ross Corr and Lancaster  
I was told by both medical staff  
at Ross Corr and Lancaster to get  
under a Doctor's care once I'm out.  
September 26, 2019 I was paroled to  
Cleveland with no placement but C.A.T.S  
A drug rehab. while at C.A.T.S I  
was losing weight, and not eating  
so I did go to Care Alliance on  
St Clair, I had lab's done and on  
December 12, 2019 I was told that  
I was H.I.V Positive that was  
my going home gift from the Ohio  
Department of Rehabilitation and  
Correction. still working my program  
I kept my head up, and other medical  
problems started to happen back went  
out, depression kick in hard, I was  
living on Archwood in apt 15, a  
~~drug deal building~~ drug dealer's



Section 4. (A)(B) Haven 3½ mos went by and I got in to it with one of the dealer's, he threaten to kill me I had to call the police several times, any way Ms. Johnson a parole agent contacted me to come down and give a statement to the hearings officer cause the dealer was on parole, so more threats was made his girlfriend kept coming to my apartment, his gang dude's was coming to my apartment trying to kill me I told my parole agent, so I pack and went to stay at the Red Roof Inn, I was out of prison now a full year (I never in my life went 1 year on the Streets this was a first...) I had not use no drugs I really wanted to keep what I had this time freedom, while waiting on ss, I money was low so I took the 1774 musket my Grad Dad left me and I was to meet a antique dealer when <sup>He</sup> got off work to sell it but I got stop Nov 2, 2020 by Cleveland police they seen the musket they call it in the police was going to let me go but Parole said lock him up as p.v. Now I have been back in prison almost 60 day's my medication has been changed my mental health meds they want give me, and I have been told by the APA Appointed Attorney that I going to get the max for my ~~musket~~ musket



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Section 4. (A)(B). I will be 60 years old getting out of prison this was not part of my plea agreement, I want the courts to know that this was the best I had ever live, I had a job, filed tax's had my own place, but I will pray for the best out of this and I pray for all of you that take a chance everyday to do your job's police, judges, Correction officers, every day people that covid has effected their lives.

I really do feel in my heart that medical here is going let me die Ohio Department of Rehabilitation and correction dont ever care about their own so what am I to them?

None of this was talked about in Court.

Thank you...